

ORDINANCE NUMBER 1649

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1438, BY REZONING CERTAIN PROPERTY FROM MANUFACTURING (M) TO GENERAL COMMERCIAL (C-G) ZONES (ZC-88-01).

WHEREAS, a Zoning Map Amendment and a Comprehensive Plan Map Amendment were considered at public hearings before the Planning Commission on June 28, July 12 and 26, 1988, and City Council on August 16, 1988, and

WHEREAS, the City Council finds the application should be approved based on the findings listed below,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The following findings of fact and conclusions are adopted:

FINDINGS:

1. The current zoning for subject property is Manufacturing (M).
2. Subject property is also being considered for a Comprehensive Plan Map Amendment from Industrial to Commercial designations (CPA-88-01).
3. This proposal is to rezone subject property from Manufacturing (M) to General Commercial (C-G) zones.
4. This rezoning request is contingent on the approval by City Council of CPA-88-01 since the proposed C-G Zone only conforms to the Commercial Plan designation.
5. The area involved is identified on Map Exhibit "A."
6. Zoning Map Amendment Criteria are addressed as follows:
  - a. Proposed Zoning to Maximum Plan Designation

Section 9.03 of the Milwaukie Zoning Ordinance states:

"The proposed rezoning must be to the maximum Comprehensive Map designation, unless proof is provided by the applicant that development at full intensity is not possible due to physical conditions (such as topography, street patterns, public service, existing lot arrangements, etc)."

The above criteria, although it does not specify this, was intended only for application of residential zones. The proposal involves a Comprehensive Plan Map Amendment from Industrial to Commercial to be implemented by the General-Commercial (C-G) Zone. The C-G Zone is the maximum zone for the Commercial Plan designation, however, since this proposal does not involve residential zoning, this criteria is not applicable.

b. Adequacy of Public Facilities

Section 9.03 of the Milwaukie Zoning Ordinance requires:

"Public facilities to be on the site are adequate to serve the proposed land uses allowed by the designations, are presently available consistent with the Comprehensive Plan Public Facilities Policies, by the time the proposed use qualifies for a certificate of occupancy or completion from the Building Department. For the purpose of this requirement, public facilities include:

- a. Water Service
- b. Sanitary Sewers
- c. Storm Sewers
- d. Streets and Traffic Impacts
- e. Police and Fire Protection
- f. School"

City Public Works and Public Safety Departments and the Oregon Department of Transportation were contacted for comments regarding adequacy of the above facilities and services. Their comments are attached as Exhibits B, C, D, and E and indicate public facilities adequacy can be provided through assignments of conditions at the Plan Amendment/Rezone and building permit stages.

Schools are the only public facility not affected, as the proposal is commercial in intent. All other public facilities are adequate, or can be made adequate, through conditions of development.

7. Comprehensive Plan conformity has been addressed as part of CPA-88-01.

CONCLUSIONS:

- 1. Approval of ZC-88-01 is contingent upon approval of CPA-88-01.
- 2. Zoning Map Amendment criteria have been met.
- 3. Conditions need to be applied to ensure the traffic improvements indicated are, in fact, provided.

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Section 2. Conditions of Approval. Failure to meet Conditions 1.a. and b. below will invalidate this action, and the Comprehensive Plan Map and zoning designations shall remain the same as the surrounding industrial zoning.

1. Prior to occupancy or within two years of the approvals for CPA-88-01 and ZC-88-01, whichever occurs first, the Applicant shall:
  - a. Participate in providing interim improvements to the intersection of Hwy. 224/37th Avenue/International Way to the satisfaction of ODOT (State Highway Division) and City Public Works. The share of the Applicant's participation will be negotiated by the City, Applicant, and other developers involved.

Section 3. Zoning Map Amendment. The Zoning Map of Ordinance 1438 is amended by rezoning subject property as depicted on Map Exhibit "A" (attached) from Manufacturing (M) to General Commercial (C-G).

Read the first time on August 16, 1988, and moved to second reading by

4 - 1 vote of the City Council.

Read the second time and adopted by the City Council on

September 6, 1988.

Signed by the Mayor on September 6, 1988.

Roger Hall  
Roger Hall, Mayor

ATTEST:

Jerri Widner  
Jerri Widner, Finance Director

Approved as to form:

Tim Ramis  
Tim Ramis, City Attorney

